



Waiver Wise

Technical Assistance for the Community Options Program Waiver COP-W

Wisconsin Department of Health & Family Services • Division of Supportive Living
Bureau of Aging & Long Term Care Resources

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Residential Care Apartment Complexes (RCACs)

What are RCACs?

As described on p.124a of the MA Waiver Manual, a Residential Care Apartment Complex (RCAC) consists of individual apartments where five or more adults reside. Each of these apartments has an individual lockable entrance and exit, as well as an individual bathroom, sleeping area, living area, and kitchen. The kitchen must include a stove (an appliance with both burners and an oven) or a microwave oven of at least 1,000 watts. In addition, a RCAC may provide a resident up to 28 hours a week of a combination of supportive, personal, and nursing services, such as assistance with bathing, dressing and grooming, laundry and housekeeping, and medication set-up and monitoring.

The term “RCAC” does not include a nursing home or community-based residential facility (CBRF). However, it may be a separate and distinct part of a structure that is a nursing home or CBRF.

To make this more clear: “RCACs are required to be either registered or certified”. Facilities serving only private pay residents are registered. For a participant to be funded in a RCAC by the MA waiver program, the RCAC must consist entirely of certified RCAC units or a combination of RCAC units and conventional independent apartments.

Key Items to Note:

- In order to be eligible for waiver funding, a RCAC must be certified and in satisfactory compliance with Wisconsin State Statutes and HFS 89, Wisconsin Administrative Code that governs RCAC's. Information may be obtained from the Department of Health and Family Services, Division of Supportive Living, Bureau of Quality Assurance, 1 West Wilson St., Madison WI, 53701.
- There is a cap on the amount of waiver funding that can be spent per person, per day for waiver funded RCAC services. ***The actual, maximum allowable amount, effective January 1, 2002, is \$69.63 per day.*** Other waiver allowable services, such as care management or adaptive aids, may be provided and are not included in this maximum funding amount.

- Note: The maximum daily per diem for CIP II/COP-W is \$40.78.
- RCAC residents are not eligible for regular COP, SSI-E (in non-certified RCACs), CIP 1A, CIP 1B, BIW, or CSLA.
- Waiver participants residing in an RCAC cannot have separate billing for home modifications (SPC 112.56), personal emergency response systems (SPC 112.46), nursing (SPC 710), or supportive home care (SPC 104).
- In accordance with HFS 89.29 (1), a RCAC cannot admit individuals who 1) are adjudicated incompetent, 2) have an activated power of attorney for health care or 3) have been found by a physician or psychologist to be incapable of recognizing danger, summoning assistance, expressing need or making care decisions, unless the person being admitted shares an apartment with a competent spouse or other person who has legal responsibility for the individual. It may be possible for a RCAC to retain a tenant who becomes incompetent or incapable of recognizing danger, summoning assistance, expressing need or making care decisions. Per HFS 89.29 (2), (b), the tenant may be retained if 1) the RCAC can ensure adequate oversight, protection and services are provided for the individual, **and** 2) the tenant has a guardian, activated power of attorney for health care, or a durable power of attorney, **and** 3) if both the service agreement and risk agreement are signed by the guardian and by the health care agent or the agent with power of attorney, if any.
- Waiver funds cannot be used to reimburse any costs associated with a resident's room/board expenses.
- Similar to other participants residing in substitute care facilities, participants residing in a RCAC must have the Room and Board Formula (found on p.39/40 of the MA Waiver Manual) completed for them in order to determine the amount of income available to pay room and board. This includes the minimum \$65.00 discretionary income amount. Participants residing in a RCAC are eligible for the special housing amount on CARES. Residents of substitute care facilities, including RCACs, may use Rent/Room costs of the facility to access the special housing deduction. See the recent Operations Memo 00-36 for more information.
- A comprehensive assessment must be performed prior to admission indicating all identified needs as a basis in developing the service and risk agreement. (HFS 89-26)

Items Needed for Waiver Application Approval:

State approval of an individual's waiver application is contingent upon three pieces of documentation. These items must be included in a waiver application for any participant residing in a RCAC. It is the county's responsibility to ensure this documentation is complete, calculated accurately, and maintained in the county's files. The three items are a ***risk agreement***, a ***contractual service agreement*** between the participant and the RCAC, and a ***cost allocation methodology***.

Risk Agreement:

As a protection for both the participant and the facility, a jointly negotiated, individualized risk agreement must be signed and dated by the participant, guardian, POAHC or a DPOA **and** an authorized representative of the RCAC by the date of occupancy (HFS 89.28 (5)). At a minimum, this item should contain the following information:

- 1) Any situation or condition which is known or should be known to the facility which involves a course of action taken or desired to be taken by the tenant contrary to the

practice or advice of the facility and which could put the tenant at risk of harm or injury.

- 2) The tenant's preference concerning how the situation is to be handled and the possible consequences of acting on that preference.
- 3) What the facility will and will not do to meet the tenant's needs and comply with the tenant's preference relative to the identified course of action.
- 4) Alternatives offered to reduce the risk or mitigate the consequences relating to the situation or condition.
- 5) The agreed-upon course of action, including responsibilities of both the tenant and the facility.
- 6) The tenant's understanding and acceptance of responsibility for the outcome from the agreed-upon course of action.
- 7) Any needs identified in the comprehensive assessment, which will not be provided for by the facility, either directly or under contract. (As per Wisconsin Administrative Code 89.28)

The risk agreement must be updated when the participant's condition or service needs change in a way that may affect risk. This may be determined through a review and update of the comprehensive assessment by a change in the contractual service agreement or at the request of the participant or RCAC.

Contractual Service Agreement:

The contractual service agreement, per HFS 89.27, must be a mutually agreed-upon, written agreement between the RCAC and the participant. It should outline the specific costs associated with provision of person-specific services to the resident and be consistent with the comprehensive assessment completed prior to admission to the RCAC. It is to be signed by the participant, guardian, POAHC or DPOA **and** an authorized representative of the RCAC, **and** by the county for a tenant whose services are funded under COP-W/CIP II (HFS 89.27 (3), (d)). The agreement should identify the following:

- 1) The type, amount, and frequency of services to be provided to the participant, as well as what services will be available to meet unscheduled needs and additional services available for purchase.
- 2) The charge for the services listed in the service agreement, supplemental fees for services not covered in the service agreement, or other agreements between the RCAC and the participant.
- 3) Policies and procedures which include methods of dealing with the following issues:
 - a.) Additional services
 - b.) Termination or transfer
 - c.) Tenant's rights
 - d.) Dispute resolution

The contractual service agreement must be reviewed when there is a change in the Participant's comprehensive assessment and the participant's service needs change. Also, it may be reviewed at request of the RCAC, at the request of the participant, or on behalf of the participant. The agreement should be updated as mutually agreed to by all parties.

Cost Allocation Methodology:

For the waiver program, there must be a cost allocation methodology to distinguish waiver allowable services from room and board costs. This methodology must include but is not limited to the information requested in Appendix O of the MA Waiver Manual, and should address the specific charges for each participant. The methodology should be updated any time the RCAC changes their rates.

If after completing the Room and Board Formula on p.39/40 of the MA Waiver Manual, a participant does not have enough money to pay the entire room and board costs, unlike other substitute care facilities, COP may not be used to assist in the payment of these costs. Other funding, such as a facility write-off, county levy, or a family contribution, would have to be pursued to assist the participant in paying the room and board amount. If other funding is not available, that RCAC is not a feasible living alternative.

Annual Recertification:

The risk agreement, contractual service agreement, and cost allocation methodology are also needed for annual recertification, unless an item has not changed or been updated from the previous year. If this is the case, document as such in the file. (For those counties not doing self-recertification, it is not necessary to send the original item to The Management Group (TMG)). Please note that the cost allocation methodology should reflect whatever amounts are listed on the ISP. If the cost allocation methodology on file does not reflect the amounts listed on the ISP for the room/board and program costs, an updated methodology should be obtained and sent to TMG by counties not doing self-recertification.

Common RCAC Questions and Answers:

1. Question: Does the \$69.63/day cap on the amount of waiver funding for RCACs include care management costs?

Answer: No. The stated daily maximum is for RCAC waiver support and supervision cost only. Services such as care management, adaptive aids, communication aids, and specialized medical supplies can be provided to a participant even if the cost of the entire service plan is more than \$69.63/day. It is the actual (not averaged) daily cost of the personal care and supervision services the RCAC provides that cannot be over \$69.63/day.

2. Question: Can the waiver program fund attendant care to a participant who needs assistance when accessing the community?

Ms. Jones, a waiver participant, lives in an RCAC which, as part of the service agreement, provides one trip a week, every Monday, to John's Grocery Store. The RCAC provides attendant care as needed. Ms. Jones prefers to go to Sam's Food Emporium for groceries. Also, her preference is to go on Thursdays because that is the only day the bakery makes her favorite whole wheat bread. In addition, Ms. Jones utilizes a wheel chair and needs assistance during her trips to the store. Not only does she need transportation assistance, but she also needs someone to help get items from the shelves and carry her groceries from the store to her apartment. Ms. Jones and her care manager have requested that the RCAC provide transportation to Sam's Food Emporium and an attendant to assist. The RCAC has

said they will not provide this additional service because the participant's service agreement does not include a Thursday trip to Sam's Food Emporium with an attendant. In completing the service agreement upon admission, Ms. Jones agreed to the Monday trip to John's Grocery Store. The RCAC has stated it will continue to provide the trip to John's Grocery Store on Mondays, with attendant care, as per Ms. Jones's service agreement.

Answer: The waiver program could pay for the transportation costs to Sam's Food Emporium. However, the waiver program cannot pay for the attendant care. Attendant care is part of SPC 104, supportive home care. Supportive home care is a service that cannot be billed separately for those participants residing in RCACs. This service is to be provided as part of the participant's service agreement. However, other funding sources (i.e. county levy, BCA) could be utilized. It is important to remember COP dollars cannot be used for a person residing in a RCAC. Additionally, volunteers or family members could provide this assistance.

This brings to the surface an important issue to consider. An RCAC is to provide a participant up to 28 hours of services per week. The contractual service agreement between the participant and the RCAC outlines the services the RCAC provides to the participant. These services are to be based on the needs and preferences outlined in the comprehensive assessment conducted by the RCAC prior to admission.

If the participant wants services that are different from what the RCAC typically offers that should be negotiated between the participant and the prior to admission. In this situation, the RCAC typically provides a trip to John's Grocery Store every Monday. Attendant care is provided as needed. Ms. Jones could have requested a different scenario, a Thursday trip to Sam's Food Emporium with attendant care, and perhaps her service agreement could have been adjusted to reflect this preference.

In this situation, it may still be possible for Ms. Jones to renegotiate the service agreement. Per HFS 89.27 (4), the service agreement shall be reviewed when there is a change in the comprehensive assessment or at the request of the facility or at the request or on behalf of the tenant and shall be updated as mutually agreed to by all parties. Therefore, Ms. Jones and/or her care manager could request the service agreement be reviewed and updated to reflect this requested change in service. If the RCAC is unwilling or unable to accommodate the wishes of Ms. Jones, Ms. Jones and her care manager may need to discuss all options available to her. This would include seeking alternative informal supports to meet the need.

3. Question: In the event the waiver participant is hospitalized or has a nursing home admission, how should charges for support and supervision be paid?

Answer: It is important for these discussions to occur prior to admission. County options include using county levy or BCA funds to pay for support and supervision. Counties may also refer the facility to Appendix O in the MA Waiver Manual for information on how to factor participant-specific institutional stay costs into the personal care and supervision rate. (See page 196 of the MA Waiver Manual.)

